

Remarks

Reconsideration of this patent application is respectfully requested, particularly as herein amended.

The Office Action of December 3, 2008, first rejects claim 11 under 35 U.S.C. §112, first paragraph, for containing new matter. Following this, claim 11 is also rejected under 35 U.S.C. §112, second paragraph, as being "confusing". In making the rejection under 35 U.S.C. §112, first paragraph, the Examiner takes the position that the recitation "wherein the notches of the screw cause the seasoning to fall into the grinder" is not supported by the specification as originally submitted. Lines 25 to 27 of page 3 of the English translation of the specification submitted when steps were taken to enter the U.S. national stage of the International Application on which this patent application is based, however, state that "movement of the screw 7 with its notches 8 breaks up the salt, facilitating grinding as the salt falls into the grinding device...." It is submitted that the person skilled in the art would readily understand from this that "the notches of the screw cause the seasoning to fall into the grinder", and reconsideration and withdrawal of the rejection of claim 11 under 35 U.S.C. §112, first paragraph, is respectfully requested. It is submitted that this equally responds to the rejection of claim 11 under 35 U.S.C. §112, second paragraph, because the person skilled in the art would clearly understand that by breaking up the seasoning, using the notches of the

screw, the seasoning would then be free to fall into the grinder under the influence of gravity. In view of this, reconsideration and withdrawal of the rejection of claim 11 under 35 U.S.C. §112, second paragraph, is also respectfully requested.

The Office Action also rejects claims 8 to 19 under 35 U.S.C. §112, second paragraph, because claim 8 is considered to be indefinite, as presented. In making this rejection, the Examiner appears to take the position that the recitation in claim 8 of "a seasoning" that can include moist salt such as Guérande salt is an impermissibly presented, nested limitation. Because "including" is an open-ended term, it is submitted that the recitation of "a seasoning, including moist salt such as Guérande salt" was appropriately presented. Noting, however, that the Office Action of December 3, 2008, has been made final, steps have nevertheless been taken to move the recitation of a "moist salt such as Guérande salt" from independent claim 8 to dependent claims 21 and 22, removing this issue from further consideration.

The Office Action of December 3, 2008, also rejects claims 8 to 19 under 35 U.S.C. §103(a) as being unpatentable over the previously cited DE 29 22 656 (Stettner & Co.; Messerschmidt, Wilfried).

As previously indicated, in the Reply filed in this matter on August 11, 2008, DE 29 22 656 describes a mill for grinding grain which functions horizontally, much like a meat grinder. The conveyor spiral (3) of the mill, which is an

optional component (noting line 3 of the English language abstract), operates to push the food product to be ground toward the grinding unit (5, 6). This is to be distinguished from the screw of applicant's mill, which has a plurality of notches for breaking up the seasoning to be ground so the seasoning can drop into the grinder.

Paragraph 7 of the Office Action of December 3, 2008, takes the position that the conveyor spiral (3) of the mill disclosed by DE 29 22 656 "inherently breaks up the material" as the material is pushed toward the grinding unit (5, 6). It is submitted, however, that the conveyor spiral (3) of the mill disclosed by DE 29 22 656 would in practice tend to agglomerate the material being pushed toward the grinding unit (5, 6) rather than break it up. This is because, in the course of pushing the material toward the grinding unit (5, 6), the conveyor spiral (3) would tend to compress the material against the grinding unit (5, 6). No structure is provided for breaking up the compressed material as it is brought into contact with the grinding unit (5, 6). Such effects are further exacerbated when grinding a moist salt such as Guérande salt because such materials would tend to increase friction between the conveyor spiral (3), the structure which surrounds it, and the material being ground, which would further tend to cause such materials to agglomerate and rather rapidly clog the mill.

This is to be distinguished from the structures of applicant's mill, which operate to break up the seasoning in the

reservoir of the mill, for delivery to the grinder, but which do not directly participate in the grinding process itself. It is, therefore, submitted that the conveyor spiral (3) of the mill disclosed by DE 29 22 656 would not inherently operate to break up the material being delivered to the grinding unit (5, 6), as is suggested in the Office Action.

Also noted is Paragraph 6 of the Office Action which, at the top of page 4, appears to correlate the "cover 9" and the "grinder 5" of the mill disclosed by DE 29 22 656 with the cap and grinder of the mill recited in applicant's claim 8. However, the cover 9 and the grinder 5 of the mill disclosed by DE 29 22 656 are not located at opposite ends of the body 1, as is recited in independent claim 8. Further, there is no disclosure of an "orientation" of the body 1 in accordance with dependent claim 10, or seasoning that "falls into the grinder", in accordance with dependent claims 10 and 11.

In addition to the foregoing distinguishing features, independent claim 8 has been amended to further recite a screw having a plurality of notches "including projections for breaking up the seasoning". Basis for reciting such structure is provided in the drawings for this patent application, combined with the disclosure provided at lines 24 and 25 of page 1 of the English translation of the specification submitted when steps were taken to enter the U.S. national stage of the International Application on which this patent application is based. The specification for this patent application has presently been amended to express

such structure at lines 11 to 14 of page 3, and at lines 11 to 15 of page 4, of the substitute specification submitted with the Reply which was filed in this matter on August 11, 2008. It is submitted that the conveyor spiral (3) of DE 29 22 656 does not incorporate "projections for breaking up the seasoning", as is now recited in applicant's claim 8, further distinguishing the disclosure of DE 29 22 656.

Accordingly, it is submitted that the structure of the mill disclosed by DE 29 22 656 is entirely different from the structure recited in applicant's claims, and that applicant's claims 8 to 19 are not appropriately subject to rejection under 35 U.S.C. §103(a) based on DE 29 22 656. It is, therefore, submitted that this patent application is in condition for allowance and corresponding action is earnestly solicited.

It is recognized that this Reply is filed following a final rejection of applicant's claims. It is submitted, however, that the final rejection has been made prematurely. The Office Action of March 13, 2008, included rejections of the originally submitted claims (1 to 7) under 35 U.S.C. §112, first and second paragraphs, under 37 C.F.R. §1.75(c) and under 35 U.S.C. §102(b), including a rejection based on DE 29 22 656. The Reply filed on August 11, 2008, took steps to revise the claims of the application to overcome the rejections under 35 U.S.C. §112, first and second paragraphs, and under 37 C.F.R. §1.75(c), but did not amend the overall scope of the claims. The Office Action of December 3, 2008, rejects pending claims 8 to 19 under

35 U.S.C. §103(a), once again based on DE 29 22 656. As a consequence, it is submitted that this new ground of rejection was not necessitated by applicant's amendment of the claims. It is, therefore, submitted that this final rejection of claims has been made prematurely, and reconsideration and withdrawal of the finality of the Office Action of December 3, 2008, is respectfully requested.

In the alternative, it is submitted that the present Reply operates to place this patent application in condition for allowance by complying with Examiner's requirements relating to the rejections under 35 U.S.C. §112, first and second paragraphs. Entry of the present Reply pursuant to 37 C.F.R. §1.116(b)(1), and an allowance of this patent application is, therefore, respectfully requested.

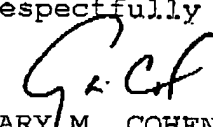
In the event that the present Reply is not considered to place this patent application in condition for allowance, entry of the submitted amendments is nevertheless requested pursuant to 37 C.F.R. §1.116(b)(2), for presenting the claims in better form for consideration on appeal.

Corresponding action is earnestly solicited.

Respectfully submitted,

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on: March 3, 2009.

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